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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,350	04/29/2004	Paul F. Lewis	JD-292	3349

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S.C. JOHNSON COMMERCIAL MARKETS INC
8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

EXAMINER

PETRUNCIO, JOHN M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/709,350	Applicant(s) LEWIS ET AL.	
	Examiner John M Petruncio	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/30/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

ClaimS 1-25 ARE rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for “concrete”, does not reasonably provide enablement for a “soiled porous surface”. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the method of the invention directed to a “soiled porous surface” commensurate in scope with these claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 5,656,683 to Ruggiero et al further in view of US 2002/0065355 to Terasse et al.

The Ruggiero et al '683 reference relates to wetting agents for concrete cleaning and adhesives and discloses a method of cleaning concrete involving a concrete cleaning formulation including, e.g., diethanolamine, NaOH, a silicate, ethylene glycol and water solvent and surfactants (see, Examples 1-6, cols. 7-8)

by application of the cleaning formulation for removing grease, dirt, and loose material prior to the application of coatings (see col. 7, line 49 et seq). The concrete surface with the formulation applied can be cleaned with a stiff-bristle brush and then flushed with water (col. 8., line 1 et seq).

To the extent that this reference does not appear to specifically disclose the subsequently applied coating components, at the time of the invention, one of ordinary skill in the subject art would have found it obvious to select such a coating, construed as a "maintainer composition", as disclosed in the Terasse et al '355 reference to be utilized as the subsequently applied coating of the primary reference, the motivation being application of a known "maintainer composition". The Terasse et al '355 reference relates to floor polishing compositions, as applied to pore-containing substrates such as resin tiles [p.8, 0126] and cement cured material (p. 3, [0050]) comprising an organic high molecular material such as certain copolymer type resins (p.2, [0036], glycol ether type solvent in addition to water (p.2, [0038], and a number of optional additives including a plasticizer, surfactant, slippage adjuster, and coalescing agents such as diethylene glycol monomethyl ether [p. 3,0046, 0047, 0048] . After coating and drying, the coated film was subjected to a mechanical polishing operation (see, e.g. p. 14, [0222]. No claim stands allowed as no patentable distinction is evident over the art of record.

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Petruncio whose telephone number is (571) 272-1323. The examiner can normally be reached on Monday-Fridays from ~9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John M. Petruncio

September 6, 2004


YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700